



Mark M. Friedman
Polkinghorn
9003 Florin Way
Upper Marlboro MD 20772

17 SEP 2007

In re Application of
Averbuch et al.
Application No.: 10/518,766
PCT No.: PCT/IL04/00758
Int. Filing Date: 18 August 2004
Priority Date: 28 January 2004
Attorney Docket No.: 27/243
For: Method Of Transmitting Data
Using Space Time Block Codes

DECISION

This is in response to the correspondence filed 13 March 2007, which is being treated as a petition under 37 CFR 1.181.

BACKGROUND

This international application was filed on 18 August 2004, claimed an earliest priority date of 28 January 2004, and designated the United States. The International Bureau transmitted a copy of the published international application to the USPTO on 11 August 2005. Consequently, the thirty month period for payment of the basic national fee in the United States expired as of midnight on 28 July 2006. On 21 December 2004, applicants filed *inter alia* the basic national fee.

On 28 February 2007, a Notification of Missing Requirements (Form PCT/DO/EO/905) was mailed to applicants, requiring the submission of an executed oath or declaration of the inventors in compliance with 37 CFR 1.497(a) and (b) and a surcharge under 37 CFR 1.492(h).

DISCUSSION

Petitioner states in part that

Enclosed herein is PTO Form, as well as an additional copy of the signed declaration, which was filed with the application on Dec. 21, 2004 (copy of postcard stamped by USPTO mailroom attached). Said declaration identifies the application by the international application number and filing date. We therefore believe that the declaration was timely filed and no surcharge is due.

The instant petition is accompanied by a declaration document and a copy of a return postcard receipt which itemizes *inter alia* a "Declaration" and is stamped as "Rec'd PCT/PTO 21 DEC 2004."

MPEP 503 states in part that

A postcard receipt which itemizes and properly identifies the items which are being filed serves as *prima facie* evidence of receipt in the USPTO of all the items listed thereon on the date stamped thereon by the USPTO.

Following the policy described at MPEP 503, the copy of the declaration document received on 13 March 2007 is being regarded as a copy of the declaration originally filed on 21 December 2004, and itemized on the postcard receipt. Review of the declaration reveals that it is acceptable for purposes of compliance with 37 CFR 1.497(a) and (b). Therefore, the Notification of Missing Requirements mailed on 28 February 2007 is hereby VACATED.

CONCLUSION

The petition is **GRANTED**.

This application is being returned to the National Stage Processing Branch for further processing. Its date under 35 U.S.C. 371(c)(1), (2) and (4) is **21 December 2004**.



George Dombroske
PCT Legal Examiner
Office of PCT Legal Administration
Tel: (571) 272-3283
Fax: (571) 273-0459